

COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY
AND THROUGH BUCKS COUNTY DISTRICT ATTORNEY
MATTHEW WEINTRAUB

vs.

3M

NO. 2022-00968

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Bucks County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: JERRY ROBERT DESIDERATO, Esq., ID: 201097

Self-Represented (Pro Se) Litigant ☐

Class Action Suit ☐ Yes ☒ No

MDJ Appeal ☐ Yes ☒ No

Money Damages Requested ☐

Commencement of Action:

Amount in Controversy:

Complaint

Case Type and Code

Miscellaneous:

Other

Other:

PUBLIC NUISANCE

**IN THE COURT OF COMMON PLEAS
OF BUCKS COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,
ACTING BY AND THROUGH BUCKS COUNTY
DISTRICT ATTORNEY MATTHEW WEINTRAUB;
and BUCKS COUNTY,

Plaintiffs,

v.

3M COMPANY (f/k/a Minnesota Mining and
Manufacturing Co.); E. I. DUPONT DE NEMOURS
AND COMPANY; THE CHEMOURS COMPANY;
THE CHEMOURS COMPANY FC, LLC; DUPONT
DE NEMOURS, INC.; CORTEVA, INC.;
CHEMGUARD, INC.; TYCO FIRE PRODUCTS LP
(successor-in-interest to The Ansul Company);
KIDDE-FENWAL, INC.; KIDDE PLC, INC.; CHUBB
FIRE, LTD.; UTC FIRE & SECURITY AMERICAS
CORPORATION, INC.; CARRIER GLOBAL
CORPORATION; RAYTHEON TECHNOLOGIES
CORPORATION (f/k/a United Technologies
Corporation); NATIONAL FOAM, INC.; BUCKEYE
FIRE EQUIPMENT COMPANY; ARKEMA, INC.;
BASF CORPORATION; CHEMDESIGN
PRODUCTS, INC.; CLARIANT CORPORATION;
CHEMICALS INCORPORATED; NATION FORD
CHEMICAL COMPANY; AGC INC. (f/k/a Asahi
Glass Co., Ltd.); AGC CHEMICALS AMERICAS
INC.; DEEPWATER CHEMICALS, INC.; DYNAX
CORPORATION; ARCHROMA MANAGEMENT,
LLC; ARCHROMA U.S., INC.; AND JOHN DOE
DEFENDANTS 1-49,

Defendants.

COMPLAINT IN CIVIL ACTION

No.: _____

NOTICE

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER AND/OR WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED RATE OR NO FEE.

Bucks County Bar Association
135 East State Street
Doylestown, PA 18901
Phone (215) 348-9413, 1-800-479-8585
www.bucksbar.org

PA BAR ASSOCIATION:
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AVISO

Le han demandado a Usted en la corte. Si Usted quiere defenderse ante las demandas expuestas en las paginas siguientes, Usted tiene veinte (20) dias de plazo a partir de la fecha de la demanda y la notificación. Hace falta asentar un comparencia escrita en persona o con un abogado y entregar a la corte en forma escrita sus defensas u objeciones a la demandas en contra de su persona. Sea avisado que si Usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Ademas la corte puede decidir a favor del demandante y requerir que Usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o propiedades u otros derechos personales importantes.

LLEVE ESTA DEMANDA A SU ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE PARA CONTRATAR UN ABOGADO, DEBE IR PERSONALMENTE O LLAMAR A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ABAJO. ESTA OFICINA LE PUEDE DAR INFORMACIÓN SOBRE CONTRATAR UN ABOGADO Y/O INFORMACIÓN SOBRE AGENCIAS QUE PODRIAN OFRECER SERVICIOS LEGALES A PERSONAS CON NECESIDAD A UN PRECIO REDUCIDO O GRATUITO.

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COMPLAINT IN CIVIL ACTION

AND NOW come the Plaintiffs, The Commonwealth of Pennsylvania, acting by and through Bucks County District Attorney Matthew Weintraub, and Bucks County (collectively, “Plaintiffs”), by and through their undersigned counsel, and bring this action against Defendants, 3M Company (f/k/a Minnesota Mining and Manufacturing Co.), E. I. DuPont De Nemours and Company, The Chemours Company, The Chemours Company FC, LLC, DuPont de Nemours, Inc., Corteva, Inc., Chemguard, Inc., Tyco Fire Products LP (successor-in-interest to The Ansul Company), Kidde-Fenwal, Inc., Kidde PLC, Inc., Chubb Fire, Ltd., UTC Fire & Security Americas Corporation, Inc., Carrier Global Corporation, Raytheon Technologies Corporation (f/k/a United Technologies Corporation), National Foam, Inc., Buckeye Fire Equipment Company, Arkema, Inc., BASF Corporation, ChemDesign Products, Inc., Clariant Corporation, Chemicals Incorporated, Nation Ford Chemical Company, AGC Inc. (f/k/a Asahi Glass Co., Ltd.), AGC Chemicals Americas, Inc., Deepwater Chemicals, Inc., Dynax Corporation, Archroma Management, LLC, Archroma U.S., Inc., and John Doe Defendants 1-49 (collectively, “Defendants”), and allege as follows:

SUMMARY OF THE CASE

1. The Commonwealth of Pennsylvania, acting by and through the Bucks County District Attorney, Matthew Weintraub (“DA Plaintiff”), brings this action against Defendants to (i) enjoin Defendants from continuing to violate Pennsylvania’s Unfair Trade Practices and Consumer Protection Law (“UTPCPL”) now and in the future, (ii) require Defendants to disgorge all monies acquired or retained as a result of their violations of the UTPCPL, and (iii) recover any and all penalties, fines, restorative relief and other recoverable damages due to his office and the people of Bucks County as a result of the actions and inactions of Defendants as set forth herein.

2. Plaintiff, Bucks County, brings this action in its capacity as a trustee of the public natural resources of the Commonwealth to recover all past and future compensatory and/or consequential damages, including the diminution of value, associated with the investigation, remediation, removal, disposal, treatment, and monitoring of the ongoing contamination of the public natural resources within Bucks County, which Plaintiff Bucks County has a duty to conserve and maintain for the benefit of all the people.

3. Plaintiff, Bucks County, also brings this action against Defendants to recover all past and future compensatory and/or consequential damages for the investigation, remediation, removal, disposal, treatment, and monitoring of the ongoing contamination of its surface water, groundwater, wastewater, soil and sediment caused and/or created by Defendants' products, diminished property value, punitive damages, attorneys' fees and costs, as well as any and all other damages available as a result of the actions and/or inactions of Defendants.

4. Plaintiff Matthew Weintraub, District Attorney for Bucks County, is an elected official of Bucks County. DA Weintraub is statutorily permitted to bring this action in the name of the Commonwealth to hold Defendants accountable for violations of the UTPCPL pursuant to 73 P.S. § 201-4. DA Weintraub brings this action on behalf of all persons in interest, including Bucks County.

5. Plaintiff Bucks County is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Bucks County may at times hereinafter be referred to as the "Municipal Plaintiff."

6. Within easy driving distance to multiple major metropolitan areas, Bucks County is characterized by bucolic landscape, serene rolling hills, preserved and working farms, historic towns, covered bridges, parks and open space.

7. Bucks County is a tourist destination, offering scenic country sides, history, the arts, downtown charm, miles of vineyards, farm-to-table and gourmet dining, small town villages, award-winning accommodations, the Ale Trail, and Sesame Place® Philadelphia, and farm tourism, among other notable attractions. The idyllic setting enjoyed by tourists and locals alike has been threatened by the actions and inactions of Defendants set forth throughout this complaint resulting in the unlawful contamination of the public natural resources of the County.

8. Bucks County is also a trustee of the public natural resources of the Commonwealth, which are held in trust for the benefit of all the people.¹ As a trustee of these resources, Bucks County is charged with conserving and maintaining them for the benefit of all the people.²

9. Bucks County is vested with the authority under the Pennsylvania Constitution and laws to protect and seek compensation and other remedies for injury, and threat of injury, to these resources in its own right and as a trustee of the Commonwealth's natural resources.

10. Bucks County is also the owner of various lands, properties, facilities, and infrastructure within Bucks County, Pennsylvania.

11. Bucks County has a significant property interest in the lands, properties, facilities, and infrastructure it owns and a significant trustee interest in protecting the natural resources of the Commonwealth, including fish and wildlife, from contamination.

12. The lands, properties, facilities and infrastructure owned by Municipal Plaintiff and the public natural resources Municipal Plaintiff has a trustee interest in are collectively referred to as, "Municipal Plaintiff's Properties."

13. Municipal Plaintiff's Properties include, but are not limited to, the Bucks County Public Safety Training Center located at 1760 S. Easton Road, Doylestown ("Bucks Training

¹ Pa. Const. art. I, § 27, commonly referred to as the Environmental Rights Amendment ("ERA").

² *Id.*

Center”), Parcel Number 09-004-036-001 located in Doylestown Township (“Easton Road Property”), and the natural resources which Bucks County has a trustee interest in conserving and maintaining, including Neshaminy Creek.

14. Per- and polyfluoroalkyl substances (“PFAS”), including perfluorooctanoic acid (“PFOA”) and perfluorooctane sulfonate (“PFOS”), were discovered in Municipal Plaintiff’s Properties, including but not limited to the groundwater, surface water, soil, and/or other natural resources. Recent testing reflects the continued existence of PFAS, PFOA and PFOS at the Bucks Training Center.

15. PFOA and PFOS are toxic, man-made compounds that do not occur naturally in the environment.

16. When released into the environment, PFOA and PFOS are persistent, do not biodegrade, move readily through soil, surface water and groundwater, can bioaccumulate and biomagnify in animal tissue, including humans, fish and wildlife, and pose a significant risk to human health and safety and the environment.

17. At various times from the 1960s through today, Defendants designed, manufactured, formulated, marketed, distributed, sold, and/or assumed or acquired liabilities for the manufacture and/or sale of PFOA, PFOS, the chemical precursors of PFOA and/or PFOS, and/or aqueous film-forming foam (“AFFF”) containing PFOA, PFOS and/or their chemical precursors (collectively, “Fluorosurfactant Products”).

18. AFFF is a firefighting agent used to control and extinguish Class B fuel fires and is used at sites such as military bases, airports, petroleum refineries, and fire training centers.

19. Defendants designed, manufactured, marketed, distributed, sold, and/or assumed or acquired liabilities for the manufacture and/or sale of Fluorosurfactant Products with the

knowledge that these toxic compounds would be released into the environment during fire protection, training, and response activities, even when used as directed and intended by the Defendants.

20. Upon information and belief, at all times pertinent herein, Defendants' Fluorosurfactant Products have been released, used, stored, and/or disposed of at or near Municipal Plaintiff's Properties for fire protection, training and response activities. During these activities, Defendants' Fluorosurfactant Products were stored, used, cleaned up, and/or disposed of as directed and intended by the Defendants, which allowed PFOS, PFOA, and/or their chemical precursors to enter the environment, and migrate through the soil, sediment, surface water, and groundwater, thereby contaminating the public natural resources of the Commonwealth and Municipal Plaintiff's Properties.

21. As a result of the use of Defendants' Fluorosurfactant Products for their ordinary and intended purpose, PFOS, PFOA, and/or their chemical precursors have been widely detected throughout the Commonwealth, including in the soil, surface water, groundwater, and/or natural resources of Municipal Plaintiff's Properties.

22. Municipal Plaintiff's Properties have been, and continue to be, contaminated by Defendants' Fluorosurfactant Products.

23. At all times pertinent herein, Plaintiffs did not know, nor should Plaintiffs have known, of the ongoing contamination of Municipal Plaintiff's Properties through the use, release, storage, and/or disposal of Defendants' Fluorosurfactant Products as Defendants did not disclose the toxic nature and harmful effects of these Fluorosurfactant Products.

24. Through this action, Plaintiffs seek to recover compensatory and/or consequential damages for all past and future costs to investigate, remediate, remove, dispose of, treat, and

monitor the PFOS and PFOA contamination of Municipal Plaintiff's Properties caused by the use of Defendants' Fluorosurfactant Products, together with statutory fines and penalties for each violation of the UTPCPL, disgorgement of monies received by Defendants as a result of their deceptive conduct, and any and all other damages recoverable under state and/or applicable federal laws. Municipal Plaintiff also seek damages and restitution for the diminution of value of its Properties. Plaintiffs also seek attorneys' fees and costs, and all other damages this court deems just and equitable.

PARTIES

25. Plaintiff Matthew Weintraub, District Attorney for Bucks County, is an elected official of Bucks County. DA Weintraub is statutorily permitted to bring this action in the name of the Commonwealth to hold Defendants accountable for violations of the UTPCPL pursuant to 73 P.S. § 201-4.

26. The District Attorney seeks to recover the amounts to which he is entitled on behalf of Bucks County pursuant to the statutory rights afforded him under the UTPCPL.

27. Plaintiff Bucks County is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania and located at 55 East Court Street, Doylestown, Pennsylvania 18901.

28. Bucks County has a significant interest in the property, lands, facilities, and infrastructure it owns, as well as a trustee interest in conserving and maintaining the public natural resources of the Commonwealth, which includes protecting them from injury and contamination.

29. Bucks County brings this action both in its own right and as a trustee of the public natural resources.

30. Upon information and belief, the following Defendants designed, manufactured, formulated, marketed, promoted, distributed, sold, and/or assumed or acquired liabilities for the manufacture and/or sale of the Fluorosurfactant Products that have and continue to contaminate Municipal Plaintiff's Properties:

- a. Defendant 3M Company ("3M") is a Delaware corporation authorized to conduct business in Pennsylvania, with its principal place of business located at 3M Center, St. Paul, Minnesota 55144. 3M is the only company that manufactured and/or sold AFFF containing PFOS in the United States, including Pennsylvania.
- b. Defendant E. I. DuPont De Nemours and Company ("Old DuPont") is a Delaware corporation with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805. Old DuPont is registered to do business in Pennsylvania.
- c. Defendant The Chemours Company ("Chemours") is a Delaware corporation with its principal place of business located at 1007 Market Street, Wilmington, Delaware 19899. Chemours is registered to do business in Pennsylvania.
- d. In 2015, Old DuPont spun off its "Performance Chemicals" business to Chemours, along with certain environmental liabilities. Upon information and belief, at the time of the transfer of its Performance Chemicals business to Chemours, Old DuPont had been sued, threatened with suit and/or had knowledge of the likelihood of litigation to be filed regarding Old DuPont's liability for damages and injuries arising from the manufacture and sale of fluorosurfactants and the products that contain fluorosurfactants.

- e. Defendant The Chemours Company FC, LLC ("Chemours FC"), successor-in-interest to DuPont Chemical Solutions Enterprise, is a Delaware limited liability company with its principal place of business located at 1007 Market Street Wilmington, Delaware 19899. Chemours FC is registered to do business in Pennsylvania.
- f. Defendant DuPont de Nemours, Inc. is a Delaware corporation with its principal place of business located at 974 Centre Road, Building 730, Wilmington, Delaware 19805. Upon information and belief, DowDuPont, Inc. was formed as a part of the merger of Dow Chemical and Old DuPont. DowDuPont, Inc. subsequently spun-off two new publicly traded companies and on June 1, 2019, DowDuPont, Inc. changed its registered name to DuPont de Nemours, Inc. ("New DuPont"). New DuPont is believed to have assumed some of the PFAS liabilities of Old DuPont. Upon information and belief, New DuPont does and/or has done business throughout the United States, including Pennsylvania.
- g. Defendant Corteva, Inc. is a Delaware corporation with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805. Upon information and belief, Corteva, Inc. is one of the aforementioned spin-off companies from DowDuPont, Inc., and is believed to have assumed some of the PFAS liabilities of Old DuPont. Corteva, Inc. is registered to do business in Pennsylvania.
- h. Defendant Chemguard, Inc. ("Chemguard") is a Texas corporation with its principal place of business located at One Stanton Street, Marinette, Wisconsin 54143. Upon information and belief, Chemguard does and/or has done business throughout the United States, including in Pennsylvania.

- i. Defendant Tyco Fire Products LP (“Tyco”) is a Delaware limited partnership with its principal place of business located at 1400 Pennbrook Parkway, Lansdale, Pennsylvania 19446. Tyco acquired Chemguard in 2011. Tyco is registered to do business in Pennsylvania.
- j. Tyco is the successor-in-interest to The Ansul Company (“Ansul”) and manufactures the Ansul brand of products (Ansul and/or Tyco as the successor-in-interest to Ansul will be referred to collectively as “Tyco/Ansul”). Upon information and belief, Tyco/Ansul does and/or has done business throughout the United States, including in the State of Pennsylvania.
- k. Defendant Kidde-Fenwal, Inc. (“Kidde”) is a Delaware corporation with its principal place of business located at One Financial Plaza, Hartford, Connecticut 06101. Upon information and belief, Kidde was part of UTC Fire & Security Americas Corporation, Inc. Upon information and belief, Kidde-Fenwal, Inc. is the successor-in-interest to Kidde Fire Fighting, Inc. (collectively, “Kidde/Kidde Fire”). Upon information and belief, Kidde/Kidde Fire does and/or has done business throughout the United States, including in Pennsylvania.
- l. Defendant Kidde PLC, Inc. is a Delaware corporation with its principal place of business located at 9 Farm Springs Road, Farmington, Connecticut 06032. Upon information and belief, Kidde PLC, Inc. was part of UTC Fire & Security Americas Corporation, Inc. Upon information and belief, Kidde PLC, Inc. does and/or has done business throughout the United States, including in Pennsylvania.
- m. Defendant Chubb Fire, Ltd. (“Chubb”) is a foreign private limited company, United Kingdom registration number 134210, with offices at Littleton Road, Ashford,

Middlesex, United Kingdom TW15 1TZ. Upon information and belief, Chubb is or has been composed of different subsidiaries and/or divisions, including but not limited to, Chubb Fire & Security Ltd., Chubb Security, PLC, Red Hawk Fire & Security, LLC, and/or Chubb National Foam, Inc. Upon information and belief, Chubb was part of UTC Fire & Security Americas Corporation, Inc.

- n. Defendant UTC Fire & Security Americas Corporation, Inc. (“UTC”) is a Delaware corporation with its principal place of business at 13995 Pasteur Blvd., Palm Beach Gardens, Florida 33418. Upon information and belief, UTC was a division of United Technologies Corporation. UTC is registered to do business in Pennsylvania.
- o. Defendant Carrier Global Corporation (“Carrier”) is a Delaware corporation with its principal place of business located at 13995 Pasteur Boulevard, Palm Beach Gardens, Florida 33418. Upon information and belief, UTC is now a division of Carrier. Upon information and belief, Carrier does and/or has done business throughout the United States, including in Pennsylvania.
- p. Defendant Raytheon Technologies Corporation (f/k/a United Technologies Corporation) (“Raytheon Tech f/k/a United Tech”) is a Delaware corporation with its principal place of business at 10 Farm Springs Road, Farmington, Connecticut 06032. Upon information and belief, Raytheon Tech f/k/a United Tech does and/or has done business in Pennsylvania.
- q. Defendant National Foam, Inc. (“National Foam”) is a Delaware corporation with its principal place of business located at 141 Junny Road, Angier, North Carolina 27501. National Foam is a subsidiary of Angus International Safety Group, Ltd. Upon

information and belief, National Foam manufactures the Angus brand of AFFF products. National Foam is registered to do business in Pennsylvania.

- r. Defendant Buckeye Fire Equipment Company (“Buckeye”) is an Ohio corporation with its principal place of business at 110 Kings Road, Mountain, North Carolina 28086. Upon information and belief, Buckeye does and/or has done business throughout the United States, including Pennsylvania.
- s. Defendant Arkema, Inc. (“Arkema”) is a Pennsylvania corporation with its principal place of business at 900 1st Avenue, King of Prussia, Pennsylvania 19406. Arkema is registered to do business in Pennsylvania.
- t. Defendant BASF Corporation (“BASF”) is a Delaware corporation with its principal place of business at 100 Park Avenue, Florham Park, New Jersey 07932. Upon information and belief, BASF acquired Ciba-Geigy Corporation and/or Ciba Specialty Chemicals. BASF is registered to do business in Pennsylvania. Upon information and belief, Ciba-Geigy Corporation and/or Ciba Specialty Chemicals does and/or has done business throughout the United States, including Pennsylvania.
- u. Defendant ChemDesign Products, Inc. (“ChemDesign”) is a Texas corporation with its principal place of business located at 2 Stanton Street, Marinette, Wisconsin 54143. Upon information and belief, this Defendant manufactured Fluorosurfactant Products for use in AFFF. Upon information and belief, ChemDesign does and/or has done business throughout the United States, including Pennsylvania.
- v. Defendant Clariant Corporation (“Clariant”) is a New York corporation with its principal place of business located at 4000 Monroe Road, Charlotte, North Carolina

28205. Upon information and belief, this Defendant manufactured Fluorosurfactant Products for use in AFFF. Clariant is registered to do business in Pennsylvania.

- w. Defendant Chemicals Incorporated (“Chem Inc.”) is a Texas corporation with its principal place of business located at 12321 Hatcherville Road, Baytown, Texas 77521. Upon information and belief, this Defendant manufactured Fluorosurfactant Products for use in AFFF. Upon information and belief, Chem Inc. does and/or has done business throughout the United States, including Pennsylvania.
- x. Defendant Nation Ford Chemical Company (“Nation Ford”) is a South Carolina corporation with its headquarters located at 2300 Banks Street, Fort Mill, South Carolina 29715. Upon information and belief, this Defendant manufactured Fluorosurfactant Products for use in AFFF. Upon information and belief, Nation Ford does and/or has done business throughout the United States, including Pennsylvania.
- y. Defendant AGC, Inc. f/k/a Asahi Glass Co., Ltd. (“AGC”), is a corporation organized under the laws of Japan and doing business throughout the United States. AGC has its principal place of business at 1-5-1, Marunouchi, Chiyoda-ku, Tokyo 100-8405 Japan.
- z. Defendant AGC Chemicals Americas, Inc. (“AGC America”) is a Delaware corporation with its principal business office at 55 E. Uwchlan Avenue, Suite 201, Exton, Pennsylvania 19341. Upon information and belief, AGC America is a subsidiary of AGC, Inc., a Japanese corporation formerly known as Asahi Glass Company, Ltd. AGC America is registered to do business in Pennsylvania.
- aa. Defendant Deepwater Chemicals, Inc. (“Deepwater”) is a Delaware corporation with its principal place of business located at 196122 E County Road 40, Woodward,

- Oklahoma 73801. Upon information and belief, this Defendant manufactured Fluorosurfactant Products for use in AFFF. Upon information and belief, Deepwater does and/or has done business throughout the United States, including Pennsylvania.
- bb. Defendant Dynax Corporation (“Dynax”) is a Delaware corporation with its principal place of business located at 103 Fairview Park Drive, Elmsford, New York 10523. Upon information and belief, this Defendant manufactured Fluorosurfactant Products for use in AFFF. Upon information and belief, Dynax does and/or has done business throughout the United States, including Pennsylvania.
- cc. Defendant Archroma Management, LLC, is a foreign limited liability company registered in Switzerland, with a principal business address of Neuhofstrasse 11, 4153 Reinach, Basel-Land, Switzerland.
- dd. Defendant Archroma U.S., Inc. is a Delaware corporation with its principal place of business located at 5435 77 Center Dr., #10, Charlotte, North Carolina 28217. Upon information and belief, Archroma U.S., Inc. is a subsidiary of Archroma Management, LLC, and supplied Fluorosurfactant Products for use in AFFF. Archroma U.S., Inc. is registered to do business in Pennsylvania.
- ee. Upon information and belief, Defendants John Doe 1-49 were designers, manufacturers, marketers, distributors, and/or sellers of Fluorosurfactant Products that have and continue to contaminate Municipal Plaintiff’s Properties. Although the identities of the John Doe Defendants are currently unknown, it is expected that their names will be ascertained during discovery, at which time Plaintiff will move for leave of this Court to add those individuals’ actual names to the Complaint as Defendants.

31. Any and all references to a Defendant or Defendants in this Complaint include any predecessors, successors, parents, subsidiaries, affiliates and divisions of the named Defendants.

32. When the term “Defendants” is used alone, it refers to all Defendants named in this Complaint jointly and severally. When reference is made to any act or omission of the Defendants, it shall be deemed to mean that the officers, directors, agents, employees, or representatives of the Defendants committed or authorized such act or omission, or failed to adequately supervise or properly control or direct their employees while engaged in the management, direction, operation or control of the affairs of Defendants, and did so while acting within the scope of their employment or agency.

JURISDICTION AND VENUE

33. Venue is proper in Bucks County because it is the judicial district in which Plaintiffs reside and are citizens, a substantial part of the property that is the subject of this action is situated in the judicial district, and a substantial part of the events or omissions giving rise to this action occurred in this judicial district.

FACTUAL ALLEGATIONS

A. THE CONTAMINANTS: PFOA & PFOS

34. PFOA and PFOS are man-made chemicals within a class known as perfluoroalkyl acid (“PFAA”). PFAAs are part of the larger chemical family known as per- and polyfluoroalkyl substances (“PFAS”). PFAA is composed of a chain of carbon atoms in which all but one of the carbon atoms are bonded to fluorine atoms, and the last carbon atom is attached to a functional group. The carbon-fluorine bond is one of the strongest chemical bonds that occur in nature, which is a reason why these molecules are so persistent. PFOA and PFOS contain eight carbon-fluorine bonds. For this reason, they are sometimes referred to as “C8.”

35. PFOA and PFOS are highly water soluble, which increases the rate at which they spread throughout the environment, contaminating soil, groundwater, and surface water. Their mobility is made more dangerous by their persistence in the environment and resistance to biologic, environmental, or photochemical degradation.³

36. PFOA and PFOS are readily absorbed in animal and human tissues after oral exposure and accumulate in the serum, kidney, and liver. They have been found globally in water, soil, air, as well as in human food supplies, breast milk, umbilical cord blood, and human serum.⁴

37. PFOA and PFOS are persistent in the human body. A short-term exposure can result in a body burden that persists for years and can increase with additional exposures.⁵

38. Since they were first produced, information has emerged showing negative health effects caused by exposure to PFOA and PFOS.

39. According to the United States Environmental Protection Agency (“EPA”), “...studies indicate that exposure of PFOA and PFOS over certain levels may result in...developmental effects to fetuses during pregnancy or to breastfed infants (e.g., low birth weight, accelerated puberty, skeletal variations), cancer (e.g., testicular, kidney), liver effects (e.g., tissue damage), immune effects (e.g., antibody production and immunity), thyroid effects and other effects (e.g., cholesterol changes).”⁶

³ See EPA, Drinking Water Health Advisory for Perfluorooctanoic Acid (PFOA), EPA Document Number : 822-R-16-005 (May 2016) at 16 ; and Drinking Water Health Advisory for Perfluorooctane Sulfonate (PFOS), EPA Document Number : 822-R-16-004 (May 2016) at 16, both available at <https://www.epa.gov/ground-water-and-drinking-water/supporting-documents-drinking-water-health-advisories-pfoa-and-pfos>.

⁴ See EPA Document Number: 822-R-16-005 (May 2016) at 18-20, 25-27; and EPA Document Number: 822-R-16-004 (May 2016) at 19-21, 26-28.

⁵ See EPA Document Number: 822-R-16-005 (May 2016) at 55; and EPA Document Number: 822-R-16-004 (May 2016) at 55.

⁶ See “Fact Sheet PFOA & PFOS Drinking Water Health Advisories,” EPA Document Number: 800-F-16-003, available at <https://www.epa.gov/ground-water-and-drinking-water/supporting-documents-drinking-water-health-advisories-pfoa-and-pfos>.

40. EPA has also warned that “there is suggestive evidence of carcinogenic potential for PFOS.”⁷

41. EPA has noted that “drinking water can be an additional source [of PFOA/PFOS in the body] in the small percentage of communities where these chemicals have contaminated water supplies.” In communities with contaminated water supplies, “such contamination is typically localized and associated with a specific facility, for example...an airfield at which [PFOA/PFOS] were used for firefighting.”⁸

42. EPA has issued Health Advisory Levels of 70 parts per trillion (“ppt”) for PFOA and PFOS found in drinking water. When both PFOA and PFOS are found in drinking water, the combined concentrations should not exceed 70 ppt.

B. AQUEOUS FILM-FORMING FOAM

43. AFFF is a type of water-based foam that was first developed in the 1960s to extinguish flammable liquid fuel fires at airports and military bases, among other places.

44. The AFFF designed, manufactured, marketed, distributed, and/or sold by Defendants contained either or both PFOA and PFOS, or the chemical precursors to PFOA or PFOS.

45. PFOS and/or the chemical precursors to PFOS contained in 3M’s AFFF were manufactured by 3M’s patented process of electrochemical fluorination (“ECF”).

46. Upon information and belief, from the 1960s through the mid-2000s, 3M manufactured, designed, marketed, distributed, and sold AFFF containing PFOS, PFOA, and/or

⁷ See “Health Effects Support Document for Perfluorooctane Sulfonate (PFOS)” U.S. Environmental Protection Agency Office of Water Health and Ecological Criteria Division, EPA Document Number: 822-R-16-002, available at <https://www.epa.gov/ground-water-and-drinking-water/supporting-documents-drinking-water-health-advisories-pfoa-and-pfos>.

⁸ See “Fact Sheet PFOA & PFOS Drinking Water Health Advisories,” EPA Document Number: 800-F-16-003, available at <https://www.epa.gov/ground-water-and-drinking-water/supporting-documents-drinking-water-health-advisories-pfoa-and-pfos>.

their chemical precursors within the United States, and raw materials containing PFOA and/or its chemical precursors for use in the production of AFFF within the United States.

47. All other Defendants manufactured fluorosurfactants for use in AFFF through the process of telomerization and/or manufactured AFFF containing fluorosurfactants manufactured through the process of telomerization. Telomerization produces fluorotelomers, including PFOA and/or the chemical precursors to PFOA.

48. Upon information and belief, by the early 1970s, National Foam and Tyco/Ansul began to manufacture, design, market, distribute, and/or sell AFFF containing PFOA and/or its chemical precursors within the United States.

49. Upon information and belief, by the 1980s, Chemguard began to manufacture, design, market, distribute, and/or sell AFFF containing PFOA and/or its chemical precursors within the United States, and fluorosurfactants containing PFOA and/or its chemical precursors for use in the production of AFFF within the United States.

50. Upon information and belief, by the 1990s, Buckeye began to manufacture, design, market, distribute, and/or sell AFFF containing PFOA and/or its chemical precursors within the United States.

51. AFFF can be made without PFOA, PFOS, or their precursor chemicals. Fluorine-free foams and short-chains foams do not release PFOA, PFOS, and/or their precursor chemicals into the environment.

52. AFFF is used to extinguish fires that are difficult to fight, particularly fires that involve petroleum or other flammable liquids. AFFF is typically applied to a fire, where it works to blanket the ignited fuel source, preventing its contact with oxygen and suppressing combustion.

53. When used as the Defendants intended and directed, Defendants' AFFF releases PFOA, PFOS, and/or their precursor chemicals into the environment.

54. Once PFOA and PFOS are free in the environment, these chemicals do not hydrolyze, photolyze, or biodegrade under typical environmental conditions and are extremely persistent in the environment. As a result of their persistence, they are widely distributed throughout soil, air, surface water, and groundwater.

55. The use of Defendants' Fluorosurfactant Products as directed and intended by the Defendants allowed PFOA, PFOS, and/or their precursor chemicals to enter into and onto Municipal Plaintiff's Properties where these compounds migrated through the subsurface and into the groundwater, thereby contaminating the surface water, soil, sediment, and groundwater, as well as causing other extensive and ongoing damage to Municipal Plaintiff's Properties.

56. Due to the chemicals' persistent nature, among other things, these chemicals have, and continue to cause injury and damage to Municipal Plaintiff's Properties.

C. DEFENDANTS' KNOWLEDGE OF PFOA AND PFOS HAZARDS

57. On information and belief, by the early 1980s, Defendants knew, or reasonably should have known, among other things, that: (a) PFOA and PFOS are toxic; and (b) when sprayed in the open environment per the instructions given by the manufacturer, PFOA and PFOS readily migrate through the subsurface, mix easily with groundwater, resist natural degradation, render drinking water unsafe and/or non-potable, and can be removed from public drinking water supplies only at substantial expense.

58. Defendants also knew or reasonably should have known that PFOA and PFOS could be absorbed into the lungs and gastrointestinal tract, potentially causing severe damage to the liver,

kidneys, and central nervous system, in addition to other toxic effects, and that PFOA and PFOS are known carcinogens that cause genetic damage.

59. In 1980, 3M published data in peer reviewed literature showing that humans retain PFOS in their bodies for years. Based on that data, 3M estimated it could take a person up to 1.5 years to clear just half of the accumulated PFOS from their body after all exposures had ceased.⁹

60. By the early 1980s, the industry suspected a correlation between PFOS exposure and human health effects. Specifically, manufacturers observed bioaccumulation of PFOS in workers' bodies and birth defects in children of workers.

61. In 1981, Old DuPont tested for and found PFOA in the blood of female plant workers in Parkersburg, West Virginia. Old DuPont observed and documented pregnancy outcomes in exposed workers, finding two of seven children born to female plant workers between 1979 and 1981 had birth defects—one an “unconfirmed” eye and tear duct defect, and one a nostril and eye defect.¹⁰

62. Beginning in 1983, 3M documented a trend of increasing levels of PFOS in the bodies of 3M workers. In an internal memo, 3M's medical officer warned “we must view this present trend with serious concern. It is certainly possible that ... exposure opportunities are providing a potential uptake of fluorochemicals that exceeds excretion capabilities of the body.”¹¹

⁹ See Letter from 3M to Office of Pollution Prevention and Toxics, EPA titled “TSCA 8e Supplemental Submission, Docket Nos. 8EHQ-0373/0374 New Data on Half Life of Perfluorochemicals in Serum,” available at <http://www.ewg.org/research/duPont-hid-teflon-pollution-decades>.

¹⁰ See Memorandum “C-8 Blood Sampling Results, Births and Pregnancies,” available at <http://www.ewg.org/research/duPont-hid-teflon-pollution-decades>.

¹¹ See Memorandum “Organic Fluorine Levels,” August 31, 1984, available at <http://www.ewg.org/research/duPont-hid-teflon-pollution-decades>.

63. Based on information and belief, in 2000, under pressure from the EPA, 3M announced that it was phasing out PFOS and U.S. production of PFOS; 3M's PFOS-based AFFF production did not fully phase out until 2002.

64. After 3M exited the AFFF market in the United States, the remaining AFFF manufacturer Defendants continued to manufacture and sell AFFF containing PFOA and/or its chemical precursors.

65. From 1951, Old DuPont, and on information and belief, Chemours, designed, manufactured, marketed, and sold Fluorosurfactant Products, including Teflon nonstick cookware, and more recently PFAS feedstocks, such as Forafac 1157 N, for the use in the manufacture of AFFF products.

66. Based on information and belief, by no later than 2001, Old DuPont manufactured, produced, marketed, and sold Fluorosurfactant Products and/or PFAS feedstocks containing or degrading into PFOA to some or all of the AFFF product manufacturers for use in their AFFF products that were discharged into the environment and contaminated Municipal Plaintiff's Properties.

67. Old DuPont had been studying the potential toxicity of PFOA since at least the 1960s and knew that it was contaminating drinking water drawn from the Ohio River and did not disclose to the public or to government regulators what they knew about the substance's potential effects on humans, animals, or the environment.¹²

68. By December 2005, the EPA uncovered evidence that Old DuPont concealed the environmental and health effects of PFOA, and the EPA announced the "Largest Environmental

¹² See, e.g., Fred Biddle, "DuPont confronted over chemical's safety," *Wilmington News Journal* (Apr. 13, 2003). The *Wilmington News Journal* is published in Wilmington, Ohio.

Administrative Penalty in Agency History.”¹³ The EPA fined Old DuPont for violating the Toxic Substances Control Act “Section 8(e)—the requirement that companies report to the EPA substantial risk information about chemicals they manufacture, process or distribute in commerce.”¹⁴

69. By July 2011, Old DuPont could no longer credibly dispute the human toxicity of PFOA, which it continued to manufacture. The “C8 Science Panel” created as part of the settlement of a class action over Old DuPont’s releases from the Washington Works plant had reviewed the available scientific evidence and notified Old DuPont of a “probable link”¹⁵ between PFOA exposure and the serious (and potentially fatal) conditions of pregnancy-induced hypertension and preeclampsia.¹⁶ By October 2012, the C8 Science Panel had notified Old DuPont of a probable link between PFOA and five other conditions—high cholesterol, kidney cancer, thyroid disease, testicular cancer, and ulcerative colitis.

70. In July 2015, Old DuPont spun off its chemicals division by creating Chemours as a new publicly-traded company, once wholly owned by Old DuPont. By mid-2015, Old DuPont had dumped its perfluorinated chemical liabilities into the lap of the new Chemours.

71. Defendants knew, or reasonably should have known, at all times relevant to this action that it was substantially certain that their acts and omissions as set forth herein would

¹³ \$16.5 million.

¹⁴ U.S. Env’tl. Prot. Agency, Reference News Release, “EPA Settles PFOA Case Against DuPont for Largest Environmental Administrative Penalty in Agency History” (Dec. 14, 2005), <https://www.epa.gov/enforcement/reference-news-release-epa-settles-pfoa-case-against-dupont-largest-environmental> (last viewed on January 30, 2018).

¹⁵ Under the settlement, “probable link,” means that given the available scientific evidence, it is more likely than not that among class members a connection exists between PFOA/C8 exposure and a particular human disease.

¹⁶ See The C8 Science Panel, Status Report: PFOA (C8) exposure and pregnancy outcome among participants in the C8 Health Project (July 15, 2011), http://www.c8sciencepanel.org/pdfs/Status_Report_C8_and_pregnancy_outcome_15July2011.pdf (last viewed on January 28, 2018).

threaten public health, cause extensive contamination of Municipal Plaintiff's Properties and natural resources, and otherwise cause the injuries described herein.

72. Notwithstanding this knowledge, Defendants negligently and carelessly: (1) designed, manufactured, marketed, distributed, and/or sold Fluorosurfactant Products; (2) issued instructions on how Fluorosurfactant Products should be used and disposed of (namely, by washing the foam into the soil or wastewater system), thus improperly permitting PFOA and/or PFOS to contaminate the surface water, soil, and groundwater in and around the Municipal Plaintiff's Properties; (3) failed to recall and/or warn the users of Fluorosurfactant Products, negligently designed products containing or degrading into PFOA and/or PFOS, of the dangers of surface water, soil, and groundwater contamination as a result of standard use and disposal of these products; and (4) further failed and refused to issue the appropriate warnings and/or recalls to the users of Fluorosurfactant Products, notwithstanding the fact that Defendants knew the identity of the purchasers of the Fluorosurfactant Products.

73. As a direct result of Defendants' acts and omissions alleged in this Complaint, Municipal Plaintiff's Properties have been and will continue to be contaminated with PFAS, including PFOA and PFOS, creating an environmental hazard, unless such contamination is remediated. As a direct and proximate result of Defendants' actions and/or inactions, Plaintiffs must assess, evaluate, investigate, monitor, remove, clean up, correct, treat, and remediate PFOA and PFOS contamination on Municipal Plaintiff's Properties at significant expense, loss and damage.

74. Defendants had a duty and breached their duty to evaluate and test such Fluorosurfactant Products adequately and thoroughly to determine their potential human health

and environmental impacts before they sold such products. They also had a duty and breached their duty to minimize the environmental harm caused by Fluorosurfactant Products.

D. OLD DUPONT'S FRAUDULENT PLANS TO SHIELD ITS ASSETS FROM ITS PFAS LIABILITIES.

75. By 2013, Old DuPont faced mounting liabilities arising out of its long-running manufacture, use, marketing, distribution, and sale of PFOA and/or its chemical precursors throughout the country. These liabilities included, among other things, clean-up costs, remediation obligations, tort damages, natural resources damages, and potential punitive damages.

76. Upon information and belief, by 2013, in order to shield its assets from these liabilities and make itself a more appealing merger partner, Old DuPont began to consider and/or engage in a complex series of corporate restructurings and spin-offs.

77. In or around 2014, Old DuPont formed The Chemours Company as a wholly-owned and operated subsidiary. Shortly thereafter, Old DuPont transferred its "Performance Chemicals" business (which included Teflon® and other products, the manufacture of which involved the use of PFOA and other PFAS) to Chemours.

78. At the time of the transfer of its Performance Chemicals business to Chemours, Old DuPont had been sued, threatened with suit, and/or had knowledge of the likelihood of litigation to be filed regarding Old DuPont's liabilities for damages and injuries arising from its manufacture and sale of its PFAS products, including PFOA and its chemical precursors.

79. Upon information and belief, prior to the spinoff, Chemours was a wholly-owned subsidiary of Old DuPont and its four-member Board of Directors consisted of three Old DuPont employees and a former member of Old DuPont's Board of Directors. Then, effective immediately prior to the spinoff, the Chemours Board of Directors doubled in size, the three Old DuPont

employees resigned, and seven new members were appointed to fill the vacancies. This new Chemours Board of Directors did not take part in negotiating the Separation Agreement.

80. In or around July 1, 2015, Old DuPont completed the spin-off Chemours as a separate public entity and saddled Chemours with Old DuPont's massive PFAS liabilities.

81. Although many of the details of the Separation Agreement remain largely hidden from the public, upon information and belief, as part of the Separation Agreement, Chemours accepted broad assumption of Old DuPont's environmental liabilities arising out of its long-running manufacture, use, discharge, marketing, distribution, and sale of PFAS.

82. Additionally, Chemours agreed to assume for itself and indemnify Old DuPont against all liabilities relating to or arising from the operation of the Performance Chemicals business at any time and regardless of which entity is named in any action or against whom such liabilities are asserted or determined.

83. Further, Chemours agreed to assume for itself and indemnify Old DuPont from all environmental liabilities that arose prior to the spinoff if Old DuPont reasonably determined that 50.1% of the liabilities were attributable to the Performance Chemicals business.

84. Upon information and belief, the value of the assets Chemours transferred to Old DuPont was substantially more than the value of the assets it received from Old DuPont, and Chemours assumed billions of dollars of Old DuPont's PFAS and other liabilities.

85. Old DuPont knew that Chemours was undercapitalized and unable to satisfy the massive liabilities that it assumed from Old DuPont. In addition to the assumption of such liabilities, Chemours was required to provide broad indemnification to Old DuPont in connection with these liabilities, which is uncapped and does not have a survival period.

86. In or around December 2015, Old DuPont entered into an agreement with Dow, Inc. (“Old Dow”) pursuant to which Old DuPont and Old Dow merged with subsidiaries of a newly formed holding company, DowDuPont, Inc. (“DowDuPont”), which was created solely for the purpose of effectuating the merger. Old DuPont and Old Dow became subsidiaries of DowDuPont.

87. Following its creation, DowDuPont engaged in a number of realignments and divestitures, the details of which remain largely hidden from Plaintiff and other creditors, intended to frustrate and/or hinder creditors with claims against Old DuPont. Upon information and belief, the net effect of these transactions was the transfer, directly or indirectly, of a substantial portion of Old DuPont’s assets to DowDuPont for far less than these assets were worth.

88. By 2019, DowDuPont spun-off two new publicly traded companies, Corteva, Inc. and Dow, Inc. (“New Dow”). DowDuPont was then renamed DuPont de Nemours, Inc. (“New DuPont”).

89. Upon information and belief, Corteva currently holds Old DuPont as a subsidiary.

90. Upon information and belief, as part of the DowDuPont Separation Agreement, Corteva and New DuPont also assumed direct financial liability of Old DuPont that was not related to the Agriculture, Material Science, or Specialty Products Businesses, including the PFAS liabilities which are allocated on a pro rata basis between Corteva and New DuPont.

E. THE IMPACT OF PFOA AND PFOS ON MUNICIPAL PLAINTIFF’S PROPERTIES

91. PFOA and PFOS have been detected in varying amounts throughout the Commonwealth, including in the soil, waters, and/or public natural resources of Municipal Plaintiff’s Properties.

92. As a result of the detection of PFOA and/or PFOS in the County, the residents of Bucks County are unable to fully participate in and enjoy the natural resources within the County.

Fish from the Neshaminy Creek watershed, which runs through Bucks County, are under a “Do Not Eat” advisory due to the levels of PFOS detected in fish tissue samples exceeding the 0.2 ppm Do Not Eat advisory level.¹⁷

93. In light of emerging scientific evidence, the EPA has designated PFOS and PFOA as “contaminants of emerging concern.”

94. According to the EPA, scientific research suggests that exposure to certain levels of PFAS, including PFOS and PFOA, may lead to adverse health outcomes, the full extent of which are still not yet known, including but not limited to: reproductive effects such as decreased fertility or increased high blood pressure in pregnant women; developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes; increased risk of some cancers, including prostate, kidney, and testicular cancers; reduced ability of the body’s immune system to fight infections, including reduced vaccine response; interference with the body’s natural hormones; and increased cholesterol levels and/or risk of obesity.¹⁸

95. PFOA and PFOS have been detected at Municipal Plaintiff’s Properties at levels that are greater than the current State and Federal Advisory Levels. The detection and/or presence of PFOA and PFOS, and the threat of further detection and/or presence of PFOA and PFOS, in Municipal Plaintiff’s Properties in varying amounts has resulted, and will continue to result, in significant injuries and damage to Plaintiffs.

96. Upon information and belief, the invasion of Municipal Plaintiff’s Properties with PFOA and PFOS is recurring, resulting in new harm to Plaintiffs on each occasion.

¹⁷ <https://www.dep.pa.gov/About/Regional/SoutheastRegion/Community%20Information/Pages/Neshaminy-Creek-Fish-Advisory.aspx>.

¹⁸ <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas>.

97. PFAS contamination has injured, and continues to injure and threaten, Municipal Plaintiff's Properties and the waters, soil, and natural resources of the Commonwealth.

98. The injuries to Plaintiffs caused by Defendants' conduct constitute an unreasonable interference with, damage to, and diminution in value of, Plaintiffs and Municipal Plaintiff's Properties. Plaintiffs' interests in protecting Municipal Plaintiff's Properties constitute a reason for seeking damages sufficient to restore such Properties to their pre-contamination condition, in addition to the other damages, statutory fines and penalties, and injunctive relief sought herein.

FIRST CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

PUBLIC NUISANCE

99. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

100. Municipal Plaintiff is a trustee of the public natural resources of the Commonwealth and is charged with conserving and maintaining them for the benefit of all the people and future generations.

101. Defendants' negligent, reckless, and/or intentional actions have resulted in the PFAS contamination of public natural resources within Bucks County, which Municipal Plaintiff has a trustee interest in, including but not limited to Neshaminy Creek and the fish therein.¹⁹

102. In 2021, Pennsylvania issued a "Do Not Eat" advisory for all fish species caught in the Neshaminy Creek basin in Bucks and Montgomery counties due to extremely high levels of

¹⁹ Neshaminy Creek Fish Advisory, <https://www.dep.pa.gov/About/Regional/SoutheastRegion/Community%20Information/Pages/Neshaminy-Creek-Fish-Advisory.aspx>.

PFAS in fish tissue samples. Levels detected in fish tissue samples from the Neshaminy Creek watershed had levels over Pennsylvania's 0.2 parts per million Do Not Eat advisory level.²⁰

103. The Neshaminy Creek Basin is the largest length of waterway in the Commonwealth to carry a "do not eat" advisory.²¹

104. Defendants' acts and omissions in causing PFAS to enter and pollute public natural resources within the County constitutes a public nuisance.

105. PFAS contamination of public natural resources within Bucks County as identified herein constitutes a public nuisance in the County, which remains unabated. The unlawful conduct by the Defendants as described herein has created these hazards to public health and safety and the environment, threatens to reduce tourism throughout this County, and has negatively affected recreational fishing within the County and the concomitant revenue received by the County due to the reduced issuance of fishing licenses.

106. The public nuisance caused by Defendants has substantially and unreasonably interfered with, obstructed, and/or threatened, among other things, Municipal Plaintiff's trustee interests in the waters and other public natural resources of the Commonwealth, as well as Municipal Plaintiff's ability to protect, conserve, and maintain the public natural resources for the benefit of all the people.

107. Each Defendant is liable for public nuisance because its conduct at issue has caused an unreasonable and substantial interference with a right common to the general public, which is the proximate cause of, and/or substantial factor leading to, Plaintiff's injury.²²

²⁰ *Id.*

²¹ "Pa. warns not to eat fish from Neshaminy Creek due to 'concerning' levels of PFOS contamination," <https://www.inquirer.com/science/climate/neshaminy-creek-pennsylvania-tyler-state-park-pfos-pfas-fish-contamination-20211013.html>.

²² See Restatement Second, Torts § 821B.

108. The health and safety of the citizens of the County is a matter of great public interest and of legitimate concern to the County's citizens and residents. Defendants' misconduct as set forth above has created or contributed to a substantial and unreasonable interference with rights common to the general public, including the right to be free of an unreasonable interference with public health, safety and peace, and the right to "pure water and to the preservation of the natural [...] values of the environment."²³

109. The public nuisance created by Defendants' actions is substantial and unreasonable – it has caused and continues to cause significant harm to the community, and the harm inflicted outweighs any offsetting benefit.

110. Defendants knew, or should have known, that their promotion and irresponsible distribution of Fluorosurfactant Products would create a public nuisance.

111. Each Defendant is liable for public nuisance because each Defendant's conduct at issue has caused or contributed to an unreasonable interference with a right common to the general public. The Defendants' conduct described herein significantly interferes with public health, safety, peace, comfort, and convenience. Without Defendants' actions, the contamination identified herein would not have become so widespread, and the enormous public health hazard that now exists would have been averted.

112. The Defendants have violated Pennsylvania law by conducting a deceptive campaign to misrepresent the safety of Fluorosurfactant Products and to ensure their widespread use knowing that they were specifically misrepresenting the high risk of perpetual contamination and concomitant adverse health effects. This misconduct has created, caused and/or substantially contributed to the public nuisance.

²³ Pa. Const. art. I, § 27.

113. Defendants' unreasonable interference with a right common to the public is of a persistent and continuing nature.

114. The Defendants have intentionally and/or unlawfully created an absolute nuisance.

115. The injury, damage and costs to Municipal Plaintiff as a result of Defendants' misconduct are both significant and either known or wholly foreseeable to Defendants. While reaping billions of dollars in revenues and profits through their misconduct, the Defendants improperly shifted the burden, harm and costs of their public nuisance to Municipal Plaintiff and the community as a whole, and its residents, which Municipal Plaintiff must address to its detriment, as alleged herein. It is, or should be, reasonably foreseeable to Defendants that their conduct will significantly and unreasonably interfere with public health, safety and welfare, with the public's right to be free from disturbance and reasonable apprehension of danger to person and property, and with the public's right to the benefit, enjoyment and use of the public natural resources of the Commonwealth.

116. Municipal Plaintiff sues in its public capacity for all appropriate injunctive and mandatory relief to abate the ongoing public nuisance, restore the County's public health, safety and peace, and recover all appropriate damages, expenses, costs and fees.

117. Municipal Plaintiff also sues in its trustee capacity to recover past and future costs and damages incurred in addressing the ongoing PFAS contamination of the public natural resources within the County, and other appropriate damages, expenses, costs and fees.

118. Defendants also are liable for punitive damages to reflect the aggravating circumstances of their intentional, willful, wanton, malicious and oppressive conduct as set forth herein. Defendants acted or failed to act knowingly, willfully and deceptively, with gross

negligence, maliciously, and/or wantonly with conscious disregard of the public's health, safety, and welfare.

SECOND CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

ENVIRONMENTAL RIGHTS AMENDMENT (PA. CONST. ART. I, § 27)

119. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

120. Through their above described acts and omissions, Defendants acted to deprive the people of their constitutional right to pure water.

121. Article I, section 27 of the Pennsylvania Constitution, known as the Environmental Rights Amendment ("ERA"), declares:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

122. The ERA establishes a common law trust, with all agencies and entities of the Commonwealth government, both statewide and local, as trustees and the public natural resources of the Commonwealth as the corpus of the trust. The people, including future generations, are the named beneficiaries of that trust.

123. The ERA charges the trustee with the duty to conserve and maintain the public natural resources.

124. Public natural resources of the Commonwealth include, but are not limited to, groundwater, surface water, soil, fish and wildlife.

125. Municipal Plaintiff, as a local governmental entity of the Commonwealth, is a trustee of the public natural resources of the Commonwealth and is vested with fiduciary duty to conserve and maintain them for the benefit of the people.

126. As manufacturers, refiners, formulators, distributors, suppliers, sellers, marketers, shippers, and/or handlers of Fluorosurfactant Products, Defendants owed a duty to Municipal Plaintiff, as well as to all persons whom Defendants' Fluorosurfactant Products might foreseeably harm, to exercise due care in the instructing, labeling, and warning of the handling, control, use, and disposal of Defendants' Fluorosurfactant Products.

127. Despite the fact that Defendants knew that PFOA and PFOS are toxic, can contaminate soil, water resources, fish and wildlife, and present significant risks to human health and the environment, Defendants negligently: (a) designed, manufactured, formulated, handled, labeled, instructed, controlled, marketed, promoted, and/or sold Fluorosurfactant Products throughout the United States, including within the Commonwealth and Bucks County; (b) issued instructions on how Fluorosurfactant Products should be used and disposed of, thus improperly permitting PFOA and/or PFOS to enter and contaminate the public natural resources of the Commonwealth, including those within Bucks County; (c) failed to warn the users of their Fluorosurfactant Products of the dangers of soil, water and natural resources contamination as a result of standard use and disposal of these Products; and (d) failed and refused to issue the appropriate warnings to the users of Fluorosurfactant Products regarding the proper use and disposal of these Products, notwithstanding the fact that Defendants knew, or could determine with reasonable certainty, the identity of the purchasers of their Fluorosurfactant Products.

128. As a direct and proximate result of Defendants' actions and/or inactions as described herein, public natural resources of the Commonwealth within Bucks County have been

contaminated with Defendants' Fluorosurfactant Products and has resulted in the PFAS contamination of these public natural resources, including but not limited to the Neshaminy Creek basin and the fish therein, of which Municipal Plaintiff is a trustee and has a duty to conserve and maintain.

129. As a trustee of the public natural resources, Municipal Plaintiff has been damaged as a result of the continued and ongoing PFAS contamination of these resources which Municipal Plaintiff has a trustee interest in protecting from injury.

130. Municipal Plaintiff was, is, and will continue to be harmed by Defendants' Fluorosurfactant Products.

131. Defendants' actions and/or inactions as described herein were a substantial factor in causing Municipal Plaintiff's harm.

132. Defendants' actions and/or inactions as described herein constitute an unlawful violation of the ERA.

133. As a direct and proximate result of Defendants' above described acts and omissions, all of which are violations of applicable state and/or federal laws, Municipal Plaintiff has incurred, continues to incur, and/or will incur costs and damages related to the PFAS contamination of the public natural resources, including but not limited to the investigation, monitoring, treatment, testing, remediation, removal, and/or disposal of the PFAS contamination, operating, maintenance and consulting costs, and legal fees.

134. Additionally, because Defendants acted with malice in their conscious, willful, and wanton disregard of the probable dangerous consequences of their conduct and its foreseeable impact upon Municipal Plaintiff, Municipal Plaintiff is entitled to punitive damages.

THIRD CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

PRIVATE NUISANCE

135. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

136. Municipal Plaintiff has a possessory interest in the Bucks Training Center and the Easton Road Property.

137. Defendants designed, manufactured, distributed, marketed, and/or sold their Fluorosurfactant Products in a manner that created, or participated in creating, a nuisance that unreasonably endangers or injures the property, health, safety, and comfort of the general public and Municipal Plaintiff, causing inconvenience and annoyance.

138. Defendants, by their negligent, reckless and willful acts and omissions set forth above have, among other things, knowingly unleashed long-lasting and ongoing PFOA and/or PFOS contamination and threat of contamination to Municipal Plaintiff's Properties.

139. Actual and threatened PFOA and/or PFOS contamination caused by Defendants' conduct has caused, and continues to cause, injury to Municipal Plaintiff in the form of present and serious interference with the use, benefit, and/or enjoyment of its Properties in a way that an ordinary, reasonable person would find is a substantial inconvenience and annoyance.

140. Defendants' conduct has interfered with and continues to interfere with Municipal Plaintiff's legitimate use and enjoyment of its real property interests because Municipal Plaintiff has incurred, and will continue to incur, costs to investigate and remediate the PFAS contamination of the Bucks Training Center and Easton Road Property, and because the PFAS contamination of

the soil and water at the Bucks Training Center and Easton Road Property reduces the property values.

141. The nuisance that Defendants have inflicted upon Municipal Plaintiff is substantial, unreasonable, and intentional and/or negligent.

142. Defendants knew or, in the exercise of ordinary case, should have known that the use of their Fluorosurfactant Products for their ordinary and intended use posed an unreasonable risk of harm to Municipal Plaintiff.

143. Defendants knew or, in the exercise of ordinary care, should have known that the use and introduction of their Fluorosurfactant Products into the environment would and has continuously, unreasonably and seriously endangered and interfered with the ordinary safety, use, benefit, and enjoyment of Municipal Plaintiff's Properties by Municipal Plaintiff.

144. Defendants' creation of a private nuisance has caused, and will continue to cause, Municipal Plaintiff to incur damages.

145. As a direct and proximate result of Defendants' above described acts and omissions, all of which are violations of applicable state and/or federal laws, Municipal Plaintiff has incurred, continues to incur, and/or will incur costs and damages related to the PFAS contamination of its Properties, including but not limited to the investigation, monitoring, treatment, testing, remediation, removal, and/or disposal of the PFAS contamination, operating, maintenance and consulting costs, legal fees, and diminished property value.

146. Additionally, because Defendants acted with malice in their conscious, willful, and wanton disregard of the probable dangerous consequences of their conduct and its foreseeable impact upon Municipal Plaintiff, Municipal Plaintiff is entitled to punitive damages.

FOURTH CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

STRICT LIABILITY – DESIGN DEFECT AND/OR DEFECTIVE PRODUCT

147. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

148. Defendants, at all times relevant herein, were designers, manufacturers, marketers, sellers, releasors and/or distributors of Fluorosurfactant Products.

149. As designers, manufacturers, marketers, sellers, releasors and/or distributors of Fluorosurfactant Products, Defendants owed a duty to all persons whom Defendants' Fluorosurfactant Products might foreseeably harm, including Municipal Plaintiff, not to market any product which is unreasonably dangerous for its intended and foreseeable uses.

150. Defendants' Fluorosurfactant Products were distributed, sold, and used in a manner intended and reasonably foreseen by Defendants, and reached consumers and the environment in a condition substantially unchanged from that in which they left Defendants' control.

151. Municipal Plaintiff was harmed by Fluorosurfactant Products that were designed, manufactured, marketed, sold and/or distributed by Defendants, and which were defectively designed, did not include sufficient instructions, and did not include sufficient warning of potential safety hazards.

152. Defendants' Fluorosurfactant Products did not perform as safely as an ordinary consumer would have expected them to perform when used or misused in an intended or reasonably foreseeable way.

153. Defendants represented, asserted, claimed and/or warranted that their Fluorosurfactant Products could be used in conformity with accompanying instructions and labels in a manner that would not cause injury or damage.

154. Defendants' Fluorosurfactant Products used on and/or in the vicinity of Municipal Plaintiff's Properties were used in a reasonably foreseeable manner and without substantial change in the condition in which they were sold.

155. Defendants knew, or should have known, that use of Defendants' Fluorosurfactant Products in their intended manner would result in the spillage, discharge, disposal, or release of PFOA and/or PFOS into the surface water, soil, and groundwater.

156. Furthermore, Defendants knew, or should have known, that their Fluorosurfactant Products are toxic, could not be contained, are persistent and do not readily degrade in the environment.

157. Defendants, with knowledge of the risks, failed to use reasonable care in the design of their Fluorosurfactant Products.

158. Municipal Plaintiff was, is and will continue to be harmed by Defendants' defectively designed Fluorosurfactant Products.

159. Defendants' Fluorosurfactant Products' failure to perform safely was a substantial factor in causing Municipal Plaintiff's harm.

160. The gravity of the environmental harm resulting from Defendants' Fluorosurfactant Products was, is, and will be enormous because PFOA and PFOS contamination is widespread, persistent and toxic.

161. The likelihood that this harm would occur was, is, and will be very high because Defendants knew and/or should have known that Defendants' Fluorosurfactant Products were toxic, could not be contained, and do not readily degrade in the environment.

162. At the time of manufacture, there were safer alternative designs available to Defendants that were feasible, cost effective, and advantageous, including not using PFOS, PFOA and/or their precursor chemicals in their Fluorosurfactant Products.

163. As a direct and proximate result of Defendants' above-described acts and omissions, all of which are violations of applicable state and/or federal laws, Municipal Plaintiff has incurred, continues to incur, and/or will incur costs and damages related to the PFAS contamination of its Properties, including but not limited to the investigation, monitoring, treatment, testing, remediation, removal, and/or disposal of the PFAS contamination, operating, maintenance and consulting costs, legal fees, and diminished property value.

164. Additionally, because Defendants acted with malice in their conscious, willful, and wanton disregard of the probable dangerous consequences of their conduct and its foreseeable impact upon Municipal Plaintiff, Municipal Plaintiff is entitled to punitive damages.

FIFTH CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

STRICT LIABILITY - FAILURE TO WARN

165. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

166. As manufacturers, distributors, suppliers, sellers, and marketers of Fluorosurfactant Products, Defendants had a duty to issue warnings to Plaintiffs, the public, water providers, and public officials of the risks posed by PFOA and PFOS.

167. Defendants knew that their Fluorosurfactant Products would be purchased, transported, stored, handled, and used without notice of the hazards that PFOA and PFOS pose to human health and the environment.

168. Defendants knew, or should have known, that use of Defendants' Fluorosurfactant Products in their intended manner would result in the release of PFOA and/or PFOS into the surface water, soil, and groundwater.

169. Defendants breached their duty to warn by unreasonably failing to provide Plaintiffs, public officials, purchasers, downstream handlers, and/or the general public with warnings about the potential and/or actual contamination of the environment by PFOA and PFOS, despite Defendants' knowledge that PFOA and PFOS were real and potential threats to human health and the environment.

170. Fluorosurfactant Products purchased or otherwise acquired from Defendants were used, discharged, and/or released at and/or in the vicinity of Municipal Plaintiff's Properties.

171. Defendants' Fluorosurfactant Products were used in a reasonably foreseeable manner and without substantial changes in the condition in which the Products were sold.

172. Defendants' Fluorosurfactant Products used on and/or in the vicinity of Municipal Plaintiff's Properties were defective in design and unreasonably dangerous for the reasons set forth above.

173. Despite the known and/or foreseeable environmental and human health hazards associated with the use and/or disposal of Defendants' Fluorosurfactant Products on or near Municipal Plaintiff's Properties, including contamination of Municipal Plaintiff's Properties with PFOA and/or PFOS, Defendants failed to provide adequate warnings of, or take any other precautionary measures to mitigate, those hazards.

174. In particular, Defendants failed to describe such hazards or provide any precautionary statements regarding such hazards in the labeling of their Fluorosurfactant Products.

175. As a direct and proximate result of Defendants' above described acts and omissions, all of which are violations of applicable state and/or federal laws, Municipal Plaintiff has incurred, continues to incur, and/or will incur costs and damages related to the PFAS contamination of their Properties, including but not limited to the investigation, monitoring, treatment, testing, remediation, removal, and/or disposal of the PFAS contamination, operating, maintenance and consulting costs, legal fees, and diminished property value.

176. Additionally, because Defendants acted with malice in their conscious, willful, and wanton disregard of the probable dangerous consequences of their conduct and its foreseeable impact upon Municipal Plaintiff, Municipal Plaintiff is entitled to punitive damages.

SIXTH CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

TRESPASS

177. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

178. Municipal Plaintiff is the owner and/or trustee of Municipal Plaintiff's Properties. Defendants knew, or in the exercise of reasonable care should have known, that PFOA and/or PFOS contaminates soil, surface, and groundwater, including the property and other rights of Municipal Plaintiff.

179. Defendants failed to properly warn against the use of Fluorosurfactant Products such that they proximately caused and continue to cause PFOA and/or PFOS to contaminate Municipal

Plaintiff's Properties, including but not limited to their soil, sediment, surface water, groundwater, and other structures located thereon.

180. The contamination of Municipal Plaintiff's Properties has varied over time and has not yet ceased. PFOA and/or PFOS continue to migrate onto and enter Municipal Plaintiff's Properties. The contamination is reasonably abatable.

181. Municipal Plaintiff has not consented to, and do not consent to, this trespass or contamination.

182. Defendants knew or reasonably should have known that Municipal Plaintiff would not consent to this trespass.

183. Municipal Plaintiff was, is, and will continue to be harmed by the entry of Defendants' Fluorosurfactant Products onto its Properties.

184. As a direct and proximate result of Defendants' above described acts and omissions, all of which are violations of applicable state and/or federal laws, Municipal Plaintiff has incurred, continues to incur, and/or will incur costs and damages related to the PFAS contamination of its Properties, including but not limited to the investigation, monitoring, treatment, testing, remediation, removal, and/or disposal of the PFAS contamination, operating, maintenance and consulting costs, legal fees, and diminished property value.

185. Additionally, because Defendants acted with malice in their conscious, willful, and wanton disregard of the probable dangerous consequences of their conduct and its foreseeable impact upon Municipal Plaintiff, Municipal Plaintiff is entitled to punitive damages.

SEVENTH CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

NEGLIGENCE

186. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

187. As manufacturers, refiners, formulators, distributors, suppliers, sellers, marketers, shippers, and/or handlers of Fluorosurfactant Products, Defendants owed a duty to Municipal Plaintiff, as well as to all persons whom Defendants' Fluorosurfactant Products might foreseeably harm, to exercise due care in the instructing, labeling, and warning of the handling, control, use, and disposal of Defendants' Fluorosurfactant Products.

188. Despite the fact that Defendants knew that PFOA and PFOS are toxic, can contaminate soil and water resources, and present significant risks to human health and the environment, Defendants negligently: (a) designed, manufactured, formulated, handled, labeled, instructed, controlled, marketed, promoted, and/or sold Fluorosurfactant Products; (b) issued instructions on how Fluorosurfactant Products should be used and disposed of, thus improperly permitting PFOA and/or PFOS to enter and contaminate Municipal Plaintiff's Properties; (c) failed to warn the users of Fluorosurfactant Products of the dangers of soil and water contamination as a result of standard use and disposal of these products; and (d) failed and refused to issue the appropriate warnings to the users of Fluorosurfactant Products regarding the proper use and disposal of these products, notwithstanding the fact that Defendants knew, or could determine with reasonable certainty, the identity of the purchasers of their Fluorosurfactant Products.

189. A reasonable manufacturer, seller, or distributor, under the same or similar circumstances would have warned of the danger or instructed on the safe use of Fluorosurfactant Products.

190. Municipal Plaintiff was, is, and will continue to be harmed by Defendants' Fluorosurfactant Products.

191. Defendants' failure to warn or instruct was a substantial factor in causing Municipal Plaintiff's harm.

192. Defendants' conduct lacked any care and was an extreme departure from what a reasonably careful company would do in the same situation to prevent harm to others and the environment, and thus Defendants were grossly negligent.

193. As a direct and proximate result of Defendants' above described acts and omissions, all of which are violations of applicable state and/or federal laws, Municipal Plaintiff has incurred, continues to incur, and/or will incur costs and damages related to the PFAS contamination of its Properties, including but not limited to the investigation, monitoring, treatment, testing, remediation, removal, and/or disposal of the PFAS contamination, operating, maintenance and consulting costs, legal fees, and diminished property value.

194. Additionally, because Defendants acted with malice in their conscious, willful, and wanton disregard of the probable dangerous consequences of their conduct and its foreseeable impact upon Municipal Plaintiff, Municipal Plaintiff is entitled to punitive damages.

EIGHTH CAUSE OF ACTION

(Municipal Plaintiff Against All Defendants)

CIVIL CONSPIRACY

195. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

196. At all times relevant herein, Defendants knew of the hazards that PFOA and/or PFOS posed to the environment, including Municipal Plaintiff's Properties.

197. Beginning in the 1960s and continuing through the date of the filing of this Complaint, Defendants agreed to engage in unlawful and wrongful acts that caused damage to Municipal Plaintiff. Each Defendant performed at least one overt act in furtherance of this conspiracy. Specifically, Defendants colluded for the avowed purpose of providing information about Fluorosurfactant Products to the public and the government, with the true, unlawful purpose of:

- a. intentionally misrepresenting to the EPA and the public that Fluorosurfactant Products were safe and did not pose a risk to human health and the environment;
- b. concealing the dangers of Fluorosurfactant Products, including the Products' characteristics and their propensity to contaminate soil and groundwater, from the government and public by, among other means, repeatedly misrepresenting how Fluorosurfactant Products were being disposed of;
- c. concealing the dangers of PFOA and/or PFOS from consumers and the public;
and
- d. using their considerable resources to fight legislation concerning Fluorosurfactant Products.

198. As a direct and proximate result of Defendants' conspiracy, Defendants' Fluorosurfactant Products at all times relevant to this litigation have:

- e. posed and continue to pose a threat to Municipal Plaintiff's Properties;
- f. contaminated and will continue to contaminate Municipal Plaintiff's Properties;
- g. contaminated and will continue to contaminate the natural resources, soil, surface water, and groundwater on and within the vicinity of Municipal Plaintiff's Properties;
- h. required and will continue to require testing and monitoring of Municipal Plaintiff's Properties for PFOA and PFOS contamination;
- i. required or will require remediation of PFOA and PFOS contamination or, where remediation is impracticable or insufficient for Municipal Plaintiff, removal and disposal of the contamination;
- j. diminished Municipal Plaintiff's confidence in, and the use and enjoyment of, Municipal Plaintiff's Properties;
- k. diminished the value of Municipal Plaintiff's Properties due to actual, impending, and/or threatened PFOA and PFOS contamination; and
- l. caused and/or will cause Municipal Plaintiff to sustain substantially increased damages and expenses resulting from the loss of the safety, use, benefit and/or enjoyment of its Properties.

199. As a direct and proximate result of Defendants' above described acts and omissions, all of which are violations of applicable state and/or federal laws, Municipal Plaintiff has incurred, continues to incur, and/or will incur costs and damages related to the PFAS contamination of its Properties, including but not limited to the investigation, monitoring, treatment, testing,

remediation, removal, and/or disposal of the PFAS contamination, operating, maintenance and consulting costs, legal fees, and diminished property value.

200. Additionally, because Defendants acted with malice in their conscious, willful, and wanton disregard of the probable dangerous consequences of their conduct and its foreseeable impact upon Municipal Plaintiff, Municipal Plaintiff is entitled to punitive damages.

NINTH CAUSE OF ACTION

(Municipal Plaintiff Against UVTA Defendants)

VIOLATION OF PENNSYLVANIA'S UNIFORM VOIDABLE TRANSACTIONS ACT

201. Municipal Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

202. Municipal Plaintiff seeks equitable and other relief pursuant to the Pennsylvania Uniform Voidable Transactions Act ("UVTA"), as adopted by the Commonwealth of Pennsylvania in 12 Pa. C.S.A. § 5101 *et seq.*, against Old DuPont, The Chemours Company, The Chemours Company FC, LLC, Corteva, Inc., and New DuPont (collectively, the "UVTA Defendants").

203. Pursuant to 12 Pa. C.S.A. § 5104(a), "[a] transfer made or obligation incurred by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

- (1) with actual intent to hinder, delay or defraud any creditor of the debtor; or
- (2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:
 - (i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or
 - (ii) intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due."

204. Further, 12 Pa. C.S.A. § 5104(b) states that, “[i]n determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether [...] before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit; the transfer was of substantially all the debtor’s assets; [...] the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.”

205. Upon information and belief, in February 2014, Old DuPont formed The Chemours Company as a wholly-owned subsidiary, and used it to spin off Old DuPont’s “Performance Chemicals” business line in July 2015.

206. Upon information and belief, at the time of the spinoff, Old DuPont’s Performance Chemicals division contained the Fluorosurfactant Products business segments. In addition to the transfer of the Performance Chemicals division, The Chemours Company accepted broad assumption of liabilities for Old DuPont’s historical use, manufacture, and discharge of PFAS.

207. Upon information and belief, at the time of the transfer of its Performance Chemicals business to The Chemours Company, Old DuPont had been sued, threatened with suit and/or had knowledge of the likelihood of litigation to be filed regarding Old DuPont’s liability for damages and injuries from the manufacture and sale of Fluorosurfactant Products.

208. The UVTA Defendants have (a) acted with intent to hinder, delay and defraud parties, such as Plaintiff, or (b) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and (i) were engaged or were about to engage in a business for which the remaining assets of The Chemours Company were unreasonably small in relation to the business; or (ii) intended to incur, or believed or reasonably should have believed that The Chemours Company would incur, debts beyond its ability to pay as they became due.

209. The UVTA Defendants engaged in actions in furtherance of a scheme to transfer Old DuPont's assets out of the reach of Plaintiff, and other similar parties, that have been damaged as a result of UVTA Defendants' conduct, omissions, and actions described herein.

210. Upon information and belief, as a result of the transfer of assets and liabilities described in this Complaint, the UVTA Defendants have attempted to limit the availability of assets to cover judgements for all of the liability for damages and injuries from the manufacturing, marketing, distribution, and/or sale of Fluorosurfactant Products.

211. Pursuant to 12 Pa. C.S.A. § 5101 *et seq.*, Plaintiff seeks to avoid the transfer of Old DuPont's liabilities for the claims brought in this Complaint and to hold the UVTA Defendants jointly and severally liable for any damages or other remedies that may be awarded by the Court or a jury to the Plaintiff under this Complaint.

212. Plaintiff further reserves such other rights and remedies that may be available to it as may be necessary to fully compensate Plaintiff for the damages and injuries it have suffered as alleged in this Complaint.

TENTH CAUSE OF ACTION

(Commonwealth of PA, acting by and through the Bucks County District Attorney)

VIOLATION OF PENNSYLVANIA'S UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, 73 P.S. §§ 201-1 – 201-9.3 (AGAINST ALL DEFENDANTS)

213. The DA Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

214. This Count does not sound in fraud.

215. The UTPCPL prohibits persons from employing "[u]nfair methods of competition" and "unfair or deceptive acts or practices," which are defined to include, *inter alia*, the following conduct:

a. “Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services.” 73 P.S. § 201-2(4)(ii);

b. “Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have” 73 P.S. § 201-2 (4)(v); or

c. “Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. § 201-2 (4)(xxi).

216. Defendants are persons under the UTPCPL.

217. Defendants violated the UTPCPL in that their conduct as alleged herein caused a likelihood of confusion or of misunderstanding as to the safety and nature of the chemicals at issue.

218. Defendants violated the UTPCPL in that by their conduct as alleged herein they represented that the chemicals at issue had approval, characteristics, uses, benefits or qualities that they do not have.

219. Under Pennsylvania law, an act or practice is unfair or deceptive if it had the capacity to deceive, or was likely to deceive, a substantial portion of the public, and was likely to make a difference in the purchasing decision.

220. Defendants’ conduct as alleged herein constitutes unfair or deceptive acts or practices in violation of the above provisions of the UTPCPL.

221. As a direct result of the acts, omissions and practices of Defendants as set forth herein that are in violation of the UTPCPL, Defendants have received, and will continue to receive, income, profits, and other benefits, which they would not have received if they had not engaged in the violations of the UTPCPL as alleged herein.

222. As a direct result of Defendants' acts, omissions and practices in violation of the UTPCPL, the Municipal Plaintiff and its affected residents and other persons in interest have suffered substantial injury as alleged herein.

223. As direct result of Defendants' acts, omissions and practices in violation of the UTPCPL, Defendants have caused the Municipal Plaintiff and its affected residents and other persons in interest to incur and continue to incur significant environmental, financial and health-related harms.

224. As Defendants' foregoing acts and practices in violation of the UTPCPL were the substantial factor in the contamination as alleged herein, Defendants are responsible for restoring to the Municipal Plaintiff, its affected residents, and other persons in interest the enormous costs and expenses which such affected persons in interest have incurred and will incur in remediating the contamination and otherwise redressing the injuries they have suffered.

225. The DA Plaintiff seeks all legal and equitable relief as allowed by law, including, *inter alia*, injunctive relief for Defendants' violations of the UTPCPL, as authorized under § 73-201-4. Specifically, the DA Plaintiff seeks an injunction requiring Defendants to cease all false or misleading promotional, marketing, and advertising activities regarding the use of chemicals containing PFAS, PFOS and PFOA, and to inform the medical community and the public of the true consequences resulting from the prior use of such contaminants.

226. The DA Plaintiff has reason to believe, based on the facts alleged herein, that the Defendants' omissions, misrepresentations, and practices related to the marketing, advertisement, promotion, and sale of the contaminants identified herein have violated, and may continue to violate, the UTPCPL, absent the grant of an injunction.

227. Unless restrained by this Court, the Defendants will likely continue to engage in the methods, acts, or practices which have a likelihood to deceive, mislead and confuse the public with respect to the use of the contaminants identified herein, all in violation of the UTPCPL.

228. These ongoing, and likely future violations by Defendants of the UTPCPL are contrary to the public interest, thereby necessitating an injunction to restrain and prevent further such misconduct by the Defendants.

229. Pursuant to Section 4 of the UTPCPL, 73 P.S. § 201-4, and due to their respective violations of the UTPCPL set out in this Complaint, the Defendants should further be ordered and directed by the Court to restore to the Municipal Plaintiff and other persons in interest in or doing business in the County, any moneys or property, real or personal, which Defendants may have acquired by means of their violations of the UTPCPL, and which the Municipal Plaintiff has been caused to expend or will be required to expend so as to remediate or otherwise address the contamination identified within this Complaint.

230. The DA Plaintiff further seeks and by way of restoration and/or restitution an order directing Defendants to disgorge all monies acquired or retained by Defendants as a result of their violations of the UTPCPL as alleged herein.

231. Section 8 of the UTPCPL, 73 P.S. § 201-8, also empowers the Court to impose a civil penalty not exceeding \$1,000 for each willful violation of the statute and a penalty not exceeding \$3,000 for each violation where the victim is sixty years of age or older.

232. The DA Plaintiff is entitled to the Court's assessment against Defendants of an appropriate civil penalty for each violation of the UTPCPL by them.

233. The monies demanded herein are in excess of \$50,000, exclusive of interests and costs.

PRAYER FOR RELIEF

Plaintiffs pray for judgment against Defendants, jointly and severally, as follows:

1. The Commonwealth of Pennsylvania, acting by and through the Bucks County District Attorney, respectfully requests that the Court award the following relief against Defendants, jointly and severally, as follows:
 - a. Enter an order enjoining Defendants from continuing to violate the UTPCPL now and in the future through their deceptive marketing, and directing that Defendants take affirmative steps to provide accurate information the public as to the nature and consequences of PFAS, PFOA and PFOS;
 - b. Enter an order requiring Defendants to restore to the Municipal Plaintiff and other affected persons-in-interest in or doing business in the County, any moneys or property, real or personal, which Defendants may have acquired by means of their violations of the UTPCPL, and which the Municipal Plaintiff has been caused to expend or will be required to expend so as to remediate or otherwise address the contamination identified within this Complaint.
 - c. Enter an order directing Defendants to disgorge all monies acquired or retained by Defendants as a result of their violations of the UTPCPL both within the County, and outside the County that had negative impacts within the County.
 - d. Enter an order awarding the Commonwealth civil penalties under 73 P.S. § 201-8 against Defendants in a sum not exceeding \$1,000 for each violation of the statute and not exceeding \$3,000 for each violation where the victim is sixty years of age or older; and
 - e. Such other and further relief as the Court deems just and proper.

2. Municipal Plaintiff Bucks County hereby seeks the following:

- A. Compensatory damages according to proof including, but not limited to:
 - 1. Costs and expenses related to the past, present, and future investigation, sampling, testing, and assessment of the extent of PFAS contamination on and within Municipal Plaintiff's Properties;
 - 2. Costs and expenses related to the past, present, and future treatment and remediation of PFAS contamination of Municipal Plaintiff's Properties;
 - 3. Costs and expenses associated with and related to the removal and disposal of the contamination; and
 - 4. Costs and expenses related to the past, present, and future installation and maintenance of monitoring mechanisms to assess and evaluate PFAS on and within Municipal Plaintiff's Properties.
- B. Diminished property value;
- C. Consequential damages;
- D. Punitive damages;
- E. Costs, disbursements, and attorneys' fees of this lawsuit;
- F. Pre-judgment and post-judgment interest; and
- G. Any other and further relief as the Court deems just, proper, and equitable.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for all issues so triable.

Dated: February 28, 2022



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VERIFICATION

I, Robert J. Harvie, Jr., hereby state that I am the Chair of the Bucks County Board of Commissioners, and that I have authority to make this verification on behalf of the County of Bucks. The averments in the Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: February 28, 2022



Robert J. Harvie, Jr.

VERIFICATION

I, Matthew D. Weintraub, hereby state that I am the District Attorney of Bucks County, and that I have authority to make this verification on behalf of the Bucks County District Attorney's Office. The factual responses contained within the Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: February 18 2022


Matthew D. Weintraub